



**St. Charles Parish**  
**Meeting Agenda**  
**Parish Council**  
**Supplemental**

St. Charles Parish Courthouse  
15045 Highway 18  
P.O. Box 302  
Hahnville, LA 70057  
985-783-5000  
scpcouncil@st-charles-la.us  
<http://www.stcharlesparish-la.gov>

*Council Chairman Wendy Benedetto*  
*Councilmembers Carolyn K. Schexnaydre, Snookie Faucheux,*  
*Terrell D. Wilson, Mary Tastet, Paul J. Hogan, Larry Cochran,*  
*Traci A. Fletcher, Julia Fisher-Perrier*

---

**Monday, March 11, 2013**                      **6:00 PM**                      **Council Chambers, Courthouse**  
**Final**

---

**SUPPLEMENTAL**

**ORDINANCES/RESOLUTIONS INTRODUCED FOR PUBLICATION/PUBLIC HEARING**

**Monday, March 25, 2013, 6:00 pm, Council Chambers, Courthouse, Hahnville**

**S\* 1      2013-0020    ( 3/11/2013, St. Pierre, Jr., Department of Finance )**

An ordinance to approve and authorize the creation of the St. Charles Parish Retiree Benefits Funding Trust, including the establishment of the Board of Trustees, in accordance with the United States Internal Revenue Code, Section 115 Retiree Benefits Trust for GASB 45 Compliance, the Louisiana Trust Code and Louisiana Law, pursuant to the St. Charles Parish Retiree Health Insurance Plan.

*Legislative History*

*1/30/13      Contract/Finance and Administrative      No Quorum*  
*Committee*

*3/11/13      Parish President                      Introduced*

**S\* 23      2013-0085    ( 3/11/2013, St. Pierre, Jr., Department of Emergency Preparedness )**

An ordinance to approve and authorize the execution of a Right of Way and Servitude Agreement by St. Charles Parish to Entergy Louisiana, LLC on the property of 15026 River Road, Hahnville.

*Legislative History*

*3/11/13      Parish President                      Introduced*

**S\* 26      2013-0084    ( 3/11/2013, St. Pierre, Jr., Department of Planning & Zoning )**

An ordinance to amend the Zoning Ordinance of 1981, Ordinance No. 81-10-6, to approve a change of zoning classification from R-1A to C-2 at Lot 10A of Block 105 of a portion of Ellington Plantation as requested by First National Bank, USA.

*Legislative History*

*1/17/13      Department of Planning & Zoning      Received/Assigned PH*

*3/7/13      Department of Planning & Zoning      Recommended Approval      Planning Commission*

*3/7/13      Planning Commission                      Recommended Approval      Parish Council*

3/11/13 Parish President Introduced

S\* 36 2013-0086 ( 3/11/2013, Cochran, Fauchaux, Benedetto )

An ordinance to approve and authorize the execution of an Agreement between Tauzin Consultants, LLC and St. Charles Parish for governmental affairs representation.

Legislative History

3/11/13 Council Member(s) Introduced

S\* 40 2013-0087 ( 3/11/2013, St. Pierre, Jr., General Government Buildings )

An ordinance to approve and authorize the execution of a Contract with Southern Construction of Metairie, LLC, for the St. Charles Parish Courthouse Door and Window Replacement project, HMPG # 1786-089-0001, FEMA Project #0071, in the amount of \$358,052.00.

Legislative History

3/11/13 Parish President Introduced

**St. Charles Parish will upon request and with three (3) days advanced notice provide reasonable accommodation to any disabled individual wishing to attend the meeting. Anyone requiring reasonable accommodation is requested to contact the Office of the Council Secretary at (985) 783-5000 to discuss the particular accommodations needed.**

**2013-0020**

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT  
(DEPARTMENT OF FINANCE)**

**ORDINANCE NO. \_\_\_\_\_**

An ordinance to approve and authorize the creation of the St. Charles Parish Retiree Benefits Funding Trust, including the establishment of the Board of Trustees, in accordance with the United States Internal Revenue Code, Section 115 Retiree Benefits Trust for GASB 45 Compliance, the Louisiana Trust Code and Louisiana Law, pursuant to the St. Charles Parish Retiree Health Insurance Plan.

**WHEREAS,** as a result of the issuance of GASB 45 government organizations must disclose in their financial statements the unfunded portion of "other post-employment benefits"; and,

**WHEREAS,** in order to provide funding for post-employment benefits, the Internal Revenue Service provides for the creation of a Section 115 Trust; and,

**WHEREAS,** said Trust shall be governed by a Board of Trustees, as outlined in said trust, who shall receive and accept all contributions to this trust and shall hold, invest, reinvest, manage, administer, conserve and distribute trust property and the increments, proceeds, earnings and income solely to provide health benefits to retirees and their eligible spouses and dependents pursuant to the express provisions of the St. Charles Parish Retiree Health Insurance Plan.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That in accordance with the provisions of the United States Internal Revenue Code, Section 115, the Louisiana Trust Code and Louisiana Law there is hereby established the St. Charles Parish Retiree Benefits Funding Trust. Said Trust shall be irrevocable, and except as otherwise provided within the Trust document, St. Charles Parish shall not have the right to alter, amend, modify or terminate said trust created by this ordinance.

**SECTION II.** That in accordance with the provisions of said Trust document, this Trust shall not terminate until such time as the St. Charles Parish Retiree Health Insurance Plan has been discontinued or terminated and all of the funds and assets have been distributed.

**SECTION III.** That the Parish President is hereby authorized to establish and execute said Trust on behalf of St. Charles Parish in the capacity as Settlor of the Trust.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_

**ST. CHARLES PARISH  
RETIREE BENEFITS FUNDING TRUST**

STATE OF LOUISIANA :

PARISH OF ST. CHARLES :

**BEFORE ME**, the undersigned Notary Public, duly commissioned and qualified, and in the presence of the undersigned competent witnesses, personally came and appeared:

St. Charles Parish ("SCP"), a political subdivision of the State of Louisiana, by and through its duly authorized Parish President, V. J. St. Pierre, Jr., pursuant to an ordinance duly adopted, whose business mailing address is 15045 River Road, P.O. Box 302, Hahnville, Louisiana 70057, in the capacity of Settlor, and V. J. St. Pierre, Jr., St. Charles Parish President, two (2) current members, to be designated, of the St. Charles Parish Council, Grant M. Dussom, Finance Director for St. Charles Parish, and Sandra Zimmer, Personnel Director for St. Charles Parish, each of whose business mailing address is 15045 River Road, P.O. Box 302, Hahnville, Louisiana 70057, in their capacity as the members of the Board of Trustees, whose primary responsibility is the management of the trust fund and holding title to property of this trust, in the performance of its essential government function of providing health insurance benefits, to retirees and their spouses and eligible dependents, including particularly those retiree benefits provided pursuant to the St. Charles Parish Retiree Health Insurance Plan (the "Plan").

St. Charles Parish herewith declares that it wishes to avail itself of the provisions of the laws of the State of Louisiana, particularly the provisions of the Louisiana Trust Code, Louisiana Revised Statutes 9:1721, et seq., and Louisiana Revised Statutes 33:5161-5162, as well as the tax-exempt trust provisions of Section 115, and all related sections, of the Internal Revenue Code of 1986, and

all related Treasury Regulations, as the same may be amended or hereafter are amended, for the sole and exclusive purposes of: 1) providing funding of employee benefits for retirees and their spouses and eligible dependents, as such rights are described in the Plan, which has been adopted and is being managed by SCP and/or its duly authorized designees, and 2) managing and conserving, or arranging the management and conservation of, funds contributed to this trust and invested for such purposes in the exercise of an essential governmental function, and, to that end, SCP hereby donates, transfers, gives, conveys and delivers in trust unto the Board of Trustees, upon the terms and conditions more fully set forth in this Act, cash in the original amount of Two Million and Five Hundred Thousand and No/100 (\$2,500,000.00) Dollars. This cash contribution, and any other property or contributions that subsequently are received by the Board of Trustees, shall be held, invested, distributed and disposed of upon the terms and conditions provided herein. It is anticipated that SCP shall make periodic contributions to this trust for long-term funding purposes for retiree benefits, and all income, profits, recoveries, contributions, forfeitures and any and all monies, securities and properties of any kind at any time received or held by this trust shall become property of this trust when received and shall be held solely for the uses and purposes thereof.

#### **I. NAME AND BENEFICIARIES: CONTRIBUTIONS: DISTRIBUTIONS**

1.1 **Name.** The trust created by this Act shall be known as "ST. CHARLES PARISH RETIREE BENEFITS FUNDING TRUST."

1.2 **Beneficiaries of the Trust.** The exclusive beneficiaries of this trust shall be: a) retirees of SCP and their eligible spouses and dependents, solely by virtue of their qualification to participate in, and pursuant to the terms of, the Plan, all in accordance with the entitlement and vested rights of such retirees and their eligible spouses and dependents to receive post-employment retiree benefits

pursuant to the terms and provisions of the Plan, for which SCP shall take reasonable efforts to identify individuals who do not qualify as eligible spouses and dependents of retirees, in accordance with the requirements of Section 152 of the Internal Revenue Code of 1986, as amended or as hereafter amended, and b) SCP, upon termination of this trust or upon termination of the Plan, as provided in Article III, below, and only if trust funds remain upon termination. This trust shall serve solely as a funding mechanism for the Plan to defray the cost of SCP retiree benefits provided under the terms and provisions of the Plan which provide coverage for retiree health and medical benefits, though the existence of this trust shall not create any independent legal obligation of SCP to provide any benefit listed in the Plan for retirees and their eligible spouses and dependents. The trust fund may become, but is not required to be, the sole source of funding for the Plan to provide benefits to retirees and their eligible spouses and dependents.

**1.3 Contributions to the Trust.** SCP shall contribute to this trust amounts which are appropriated for such purpose by the SCP members, in the sole discretion of the members of SCP, or any dedicated or earmarked funds for the purposes provided herein by the voters of St. Charles Parish, and SCP is not required to make contributions to this trust absent the existence of a contractual obligation mandating contributions. The Board of Trustees shall receive and accept all contributions to this trust and shall hold, invest, reinvest, manage, administer, and distribute trust property and the proceeds, earnings and income therefrom solely to provide health benefits to retirees and their eligible spouses and dependents, pursuant to the express provisions of the Plan. No contributions from employees or former or retired employees shall be made to or received by this trust, nor shall contributions from any employers other than SCP be made to this trust.

1.4 **Distributions of Trust Funds by the Board of Trustees.** The Board of Trustees may distribute trust funds to and for the benefit of the Plan, at such time or times and in such amounts and manner as the Board of Trustees, in its sole discretion, shall determine to be necessary, solely for the funding of the Plan, for the benefit of premium payments of the Plan and payments for retirees and their eligible spouses and dependents, pursuant to and in accordance with the terms, provisions and requirements of the Plan. Any amounts of income that the Board of Trustees shall decide not to distribute for the benefit of retirees and their eligible spouses and dependents shall be accumulated and added to principal of this trust.

## **II. IRREVOCABILITY**

2.1 This trust shall be irrevocable, and SCP and, except as otherwise provided herein, SPC, shall not have the right to alter, amend, modify or terminate this trust created by this Act, except as provided herein and pursuant to ordinance duly passed. SCP herewith is authorized, or may seek through the proper court, to terminate or to modify or amend this trust or its administrative provisions, as the case may be, in the events of a substantial change in circumstances or the purposes of this trust becoming impossible of accomplishment, in accordance with the laws of the State of Louisiana, Articles 2021-2031 of the Louisiana Trust Code. Similarly, SCP may amend this trust at any time if necessary to conform to any requirement of the laws of the State of Louisiana or of the United States, particularly those laws of the United States contained in the Internal Revenue Code of 1986, as amended or as hereafter amended, particularly Section 115 thereof.

## **III. TERM OF THE TRUST**

3.1 This trust shall terminate after the Plan has been discontinued and may terminate of all of the funds and assets hereof have been distributed. Within sixty (60) days after the termination of the



Plan, or its discontinuance in operation, the Board of Trustees shall distribute to SCP all remaining trust property equal in value to the whole of the trust property as reflected by the Board of Trustees' books of account as of that time. The trust partially may terminate, and trust funds thereby revert to SCP, if at least one (1) retiree benefit plan is terminated or its operations discontinued, such that continued funding of retiree benefits applicable to such terminated or discontinued benefit plan no longer is needed or appropriate. In no event, upon termination, shall any of the assets or property of this trust be distributed to any entity or person other than SCP or its designee, which designee shall be the State of Louisiana, a political subdivision of the State of Louisiana or an entity whose gross income entirely is excluded from income taxation pursuant to Section 115 of the Internal Revenue Code of 1986, as amended or as hereafter amended.

#### **IV. RESTRICTIONS ON DISPOSITION; ANTI-ALIENATION**

4.1 To the maximum extent permitted by Louisiana law, and particularly by the spendthrift provisions of Louisiana Revised Statutes 9:2007, as amended, and any and all future amendments thereto, which expressly are made applicable to this trust, the beneficiaries of this trust are prohibited from alienating or encumbering any interest in this trust, voluntarily or involuntarily, and any interest of any beneficiary shall not be subject to execution or seizure, attachment or any other legal process, bankruptcy proceeding, interference or control by any creditors or other third persons, or otherwise.

#### **V. POWERS OF THE BOARD OF TRUSTEES**

5.1 **General Powers.** The Board of Trustees exclusively shall have and exercise all of the power and authority necessary and appropriate to invest, manage, protect and conserve the assets and the property of this trust, as well as all powers that may be conferred upon trustees under applicable federal and state laws, except as otherwise provided herein.



5.2 **Registration of Trust Assets.** The Board of Trustees may register any trust asset in its own name or in the name of a nominee, custodian or investment manager as an agent for the Board of Trustees, such as a partnership, another business entity, or another trust, and it shall keep and maintain at all times adequate records regarding the property, assets and investments which comprise the income and the principal of the trust.

5.3 **Retention of Trust Property.** The Board of Trustees may hold and retain trust property in the form received, so long as the Board of Trustees deems retention to be advisable and in the best interests of this trust and of its beneficiaries.

5.4 **Commingling.** The Board of Trustees may commingle the property and assets of this trust with the property and assets of any other SCP trust fund created for the benefit of a beneficiary of this trust, whether for investment, administrative or other beneficial, appropriate and necessary purposes, but the Board of Trustees at all times shall maintain separate and independent records of account for the assets and property of this trust.

5.5 **Custody and Location of Trust Property.** The Board of Trustees may keep all or any part of the trust property at any location in Louisiana, or elsewhere, with such depositories or custodians at such places as the Board of Trustees shall deem necessary or advisable and may hold securities in the names of nominees. The Board of Trustees may enter into custodial arrangements with qualified third parties pursuant to written agreements for such purpose.

5.6 **Cash in Trust.** The Board of Trustees may keep cash available, invested or uninvested, in an amount it determines to be prudent for the payment of retiree benefits and ordinary and necessary trust expenses, and otherwise in anticipation of the need to make distributions to the Plan for the benefit of retirees and their eligible spouses and dependents.

5.7 **Investment of Trust Funds.** The Board of Trustees may invest, or may designate and permit an investment manager to invest on its behalf, the assets of the trust in any investment it considers prudent within the policies of the Board of Trustees and pursuant to Paragraphs 5.9-5.11 and Paragraph 6.1, below, and as permitted by law, particularly Louisiana Revised Statutes 33:5162 and Section 115 of the Internal Revenue Code of 1986, as such statutes are amended or hereafter are amended, all as further provided herein.

5.8 **Investment Manager; Designated Custodian of Assets.** The Board of Trustees may engage or retain one or more investment managers for advisory purposes in the determination of investment strategies and objectives to be adopted by the Board of Trustees and to manage a portfolio or portfolios of trust property and assets in a discretionary manner, but entirely within the limitations of Paragraphs 5.9-5.11, below. If the Board of Trustees elects to appoint or to engage an investment manager, the investment manager shall be a Registered Investment Advisor under the Investment Advisers Act of 1940, or a bank trust department under the supervision of the Office of the Comptroller of Currency or the Louisiana Office of Financial Institutions, and the Board of Trustees shall not be liable for any act or omission of the investment manager and otherwise shall not be responsible for the investment of funds by the investment manager for and on behalf of this trust. Any written contract with an investment manager shall require the investment manager to make individual investment selections consistent with the policies of the Board of Trustees, Louisiana law and this trust, and such written contract may contain a delegation of powers or discretion of the Board of Trustees and may, but need not, assign to the investment manager custody and control of identified trust fund assets. The Board of Trustees shall review and monitor the investment activities of the investment manager or advisor, including any tests or analyses the Board of Trustees considers

prudent under the circumstances, reasonably to assure the stability, growth and the appropriate, prudent investment of trust fund property and assets. The investment manager shall be a fiduciary with respect to the trust and its beneficiaries and shall acknowledge such in writing to the Board of Trustees. Investment performance reports submitted by any investment manager to the Board of Trustees shall be in compliance with the current Global Investment Performance Standards as amended and published by the CFA Institute or any successor entity.

**5.9 Permissible Investments.** The Board of Trustees may invest trust funds in the following described investments, in accordance with the provisions of Louisiana Revised Statutes 33:5162A, as amended or hereafter amended:

- (a) Direct United States Treasury obligations, the principal and interest of which fully are guaranteed by the government of the United States.
- (b) Bonds, debentures, notes, or other evidence of indebtedness, any of which is issued or guaranteed by federal agencies and backed by the full faith and credit of the United States of America.
- (c) Bonds, debentures, notes, or other evidence of indebtedness, any of which is issued or guaranteed by a United States government-sponsored entity.
- (d) Direct security repurchase agreements of any federal book-entry only securities enumerated in Paragraphs (a), (b), and (c), above. Direct security repurchase agreement means an agreement under which the trust buys, holds for a specified time, and then sells back those securities and obligations enumerated in Paragraphs (a), (b), and (c), above.
- (e) Bonds, debentures, notes, or other evidence of indebtedness, any of which is issued by corporations of the United States which are rated investment grade as reflected by a rating by Moody's, Inc., of Baa or its equivalent or better or a rating by Fitch or Standard & Poor's Corporation of BBB, or its equivalent or better.
- (f) Bonds, debentures, notes, or other evidence of indebtedness, any of which is issued by and backed by the full faith and credit of sovereign nations, is denominated in United States dollars, and is rated investment grade as reflected by a rating by Moody's, Inc., of A or better or a rating by Fitch or Standard & Poor's Corporation of A or better.

(g) Money market mutual funds as authorized by subparagraph (k), below, direct issue commercial paper except asset-backed commercial paper as prohibited by Paragraph 5.10 hereof, and other short-term money market securities as authorized by this Paragraph.

(h) The Louisiana Asset Management Pool and any other intergovernmental pool formed by, or of, Louisiana governmental entities.

(i) (1) Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares, as defined by La. R.S. 6:703, of savings and loan associations and savings banks, or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. For those funds made available for investment in time certificates of deposit, the rate of interest paid by the bank shall be established by contract between the bank and the trust; however, the interest rate at the time of investment shall be a rate not less than fifty basis points below the prevailing market interest rate on direct obligations of the United States Treasury with a similar length of maturity.

(2) Funds invested in accordance with the provisions of this Paragraph shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution or in any one savings and loan association or National Credit Union Administration, unless the uninsured portion is collateralized by the pledge of securities in the manner provided in La. R.S. 39:1221.

(j) Stocks of any corporation listed on the New York Stock Exchange, the American Stock Exchange, or authorized for quotations display on the National Association of Securities Dealers Automated Quotations System, or any successor national exchanges.

(k) Mutual funds which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Company Act of 1940 and that are listed on the New York Stock Exchange, the American Stock Exchange, or authorized for quotations display on the National Association of Securities Dealers Automated Quotations System, or any successor national exchanges, and that have underlying investments consisting predominantly of securities permitted by this Paragraph. As used in this Paragraph, predominantly means ninety (90%) percent or greater.

(l) Exchange traded funds which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Company Act of 1940 and that are listed on the New York Stock Exchange, the American Stock Exchange, or authorized for quotations display on the National Association of Securities Dealers Automated Quotations System, or any successor national exchanges, and which have underlying investments consisting predominantly of securities permitted by this Paragraph.

**5.10 Prohibited Investments.** The Board of Trustees shall not use funds, assets or property of the trust to invest in the following described investments, or to engage in the following activities, in accordance with the provisions of Louisiana Revised Statutes 33:5162B, as amended or hereafter amended:

- (a) The use of any leverage, either directly or through mutual funds or exchange traded funds that use leverage.
- (b) Selling short any securities, either directly or through mutual funds or exchange traded funds that sell securities short.
- (c) Investing in, or by, any of the following: asset-backed securities other than those issued directly by the entities described in subparagraphs (a), (b), and (c) of Paragraph 5.9, above; the purchase of stock warrants; any direct interest in oil, gas, or other mineral exploration program; private or direct placements of any kind; direct ownership of real estate or real estate investment trusts; collectibles such as coins, stamps, or art; direct loans or extensions of credit; the direct purchase of securities denominated in foreign currencies, purchased on foreign exchanges, or cleared through foreign clearing entities; the direct purchase of single family or commercial mortgages; collateralized mortgage obligations that have been stripped into interest only or principal only obligations; inverse floaters; or structured notes. For the purposes of this Paragraph, "structured notes" means securities which have been restructured, modified, or reissued by private entities.

**5.11 Investment Limitations.** In accordance with the provisions of Louisiana Revised Statutes 33:5162, as amended or hereafter amended, all investments of trust funds, assets and properties shall be subject to the following limitations and requirements:

- (a)
  - (1) Though the investment policy adopted by the Board of Trustees for this trust may provide for specific asset allocations for asset classes, in no circumstance, except as provided in this Paragraph, shall this trust have more than fifty-five (55%) percent, in value, of the total portfolio in equities.
  - (2) If the equity portion of the portfolio exceeds fifty-five (55%) percent of the total portfolio as measured at the end of a calendar quarter, the Board of Trustees shall take such actions as are prudent to reduce the equity portion of the portfolio to no more than fifty-five (55%) percent during the following calendar quarter.
  - (3) The underlying assets of mutual funds and exchange traded funds shall be used when making calculations as required by this subparagraph.

- (b) (1) This trust shall not own more than five (5%) percent of the outstanding stock of any company or other business entity.
- (2) If this trust shall come to own greater than five (5%) percent of the outstanding stock of a company or other business entity as measured at the end of a calendar quarter, the Board of Trustees shall take such actions as are prudent to reduce its ownership to below five (5%) percent during the following calendar quarter.
- (c) (1) No more than ten (10%) percent of the funds designated for equity allocation shall be invested in the stock of any single company or other business entity.
- (2) In the event that more than ten (10%) percent of the funds designated for equity allocation become invested in the stock of any single company or other business entity as measured at the end of a calendar quarter, the Board of Trustees shall take such actions as are prudent to reduce its ownership to below ten (10%) percent during the following calendar quarter.
- (d) (1) This trust shall not allow more than fifteen (15%) percent of the trust funds designated for equity allocation to be concentrated in any single industry. "Industry" shall be defined by the Global Industry Classification System as promulgated by Standard & Poor's or its successors from time to time.
- (2) In the event this trust shall come to own greater than fifteen (15%) percent of the funds designated for equity allocation in a single industry as measured at the end of a calendar quarter, the Board of Trustees shall take such actions as are prudent to reduce its ownership to below fifteen (15%) percent during the following calendar quarter.
- (e) Fixed income securities shall be selected with consideration for the total anticipated return, taking into consideration both interest income and capital appreciation or loss.
- (f) All fixed income investments appropriately shall be diversified by maturity, security, sector, and credit quality.
- (g) If any fixed income investment security in the portfolio is downgraded below the applicable requirements in subparagraphs (e) or (f) of Paragraph 5.9, above, the Board of Trustees shall take such actions as are prudent to eliminate the exposure of this trust to that security by the end of the next full calendar quarter.

**5.12 Tax-exempt Securities.** Subject to the provisions of Paragraphs 5.9-5.11, above, the Board of Trustees, directly or through its investment manager, may invest trust property in securities whose



interest, dividends or other proceeds are exempt wholly or partly from federal or state income taxation.

**5.13 Ownership of Corporate Stock.** Subject to the provisions of Paragraphs 5.9-5.11, above, this trust may own and retain all of the corporate stock of regular corporations received by the Board of Trustees for this trust so long as the Board of Trustees may deem such ownership prudent and advisable.

**5.14 Allocations of Trust Receipts and Disbursements.** The Board of Trustees may determine which receipts shall be charged or credited to income and which to principal in any manner that fairly and equitably reflects a proper allocation between principal and income and may treat as income the whole of the interest, dividends, rents, royalties or similar receipts from trust property, whether wasting assets or not and even if bought or taken at a value above par; may treat as income or principal or apportion between them stock dividends, extraordinary dividends, rights to take stocks or securities and the proceeds from the sale of immovable property, although such immovable property may have been partly or wholly unproductive; may charge to income or principal or apportion between them any expense of making or changing investments, brokers' commissions, agents' compensation, attorney and accountant fees, repairs or improvements, taxes, depreciation charges, and trustee compensation; and, generally, may determine all questions as between principal and income and to credit or charge to either, or to apportion between them, any receipt or gain and any charge, disbursement, or loss as is deemed advisable in the circumstances of each case as it arises, notwithstanding any statute, rule of law or any determination of the courts for distinguishing income from principal.



**5.15 Agents and Employees.** The Board of Trustees may employ or retain such employees, agents and advisors as the Board of Trustees deems necessary and appropriate to assist in performing any duties of the Board of Trustees including, but by way of illustration only, investment advice, management advice, legal advice, accounting advice, actuarial advice, appraisal advice and for any other purposes the Board of Trustees considers advisable and necessary, and may determine reasonable charges for such services and make payment therefor out of trust property. Incident to the provision of such services, the Board of Trustees may engage such advisors upon any matter of doubt as to the meaning or interpretation to be placed upon this trust or the Plan or any provisions thereof with reference to any question arising in the administration of this trust or the Plan or pertaining to the rights and liabilities of the Board of Trustees hereunder. The Board of Trustees, in any such event, may act in reliance upon the advice, opinions, records, statements and computations of any attorneys, accountants and agents and on the records, statements and computations of any servants so selected by the Board of Trustees in good faith and shall be released and exonerated of and from any and all liability in so doing.

**5.16 Powers of Attorney.** The Board of Trustees may give to others such powers of attorney, with or without power of substitution, in connection with the exercise of other powers as the Board of Trustees may deem advisable, appropriate and solely in the best interests of this trust, but in the grant of such powers of attorney the Board of Trustees shall not relinquish its fiduciary duties to this trust, nor shall any such agent or representative be relieved of fiduciary duties to this trust.

**5.17 Litigation Matters.** The Board of Trustees may institute, maintain, sue, defend, compromise, arbitrate, mediate, compound, and settle any debt, obligation, claim, suit, or legal proceeding involving the trust fund and its property and assets, or defend same, as well as reduce the

rate of interest on, extend or otherwise modify, foreclose upon, default, or otherwise enforce any debt, obligation, or claim or cause of action, at the sole cost and expense of this trust, as in the opinion and discretion of the Board of Trustees shall be necessary, fair and equitable in each case. However, the Board of Trustees shall have no duty or obligation to institute, prosecute, maintain or defend any suit, action or other legal proceeding unless the Board of Trustees considers such action to be reasonable, prudent and appropriate under the circumstances.

**5.18 Court Supervision Unnecessary.** The Board of Trustees shall not be required to obtain the order of any court to exercise any power or discretion under this trust.

**5.19 Miscellaneous Agreements.** The Board of Trustees may enter into any and all kinds of contracts and agreements, whether or not specifically described in this Article V, except as otherwise provided in this Article V.

## **VI. DUTIES OF THE BOARD OF TRUSTEES**

**6.1 General Duties.** The Board of Trustees shall establish an investment policy and related guidelines which are appropriate and prudent for the investment and management of trust funds and property and may review and change the policies and guidelines as necessary and appropriate, all consistent with applicable federal and state laws. Additionally, the Board of Trustees may establish other written policies necessary to manage, conserve and administer trust funds and to transact the business of this trust.

**6.2 Accounting.** The Board of Trustees shall render an account of the administration of the trust in full satisfaction and accordance with the provisions of Section 2088 of the Louisiana Trust Code. In this regard, the Board of Trustees shall maintain accurate and detailed accounts of each investment, receipt, disbursement, and other transaction, including any specific record required by

law. All such accounts, books and records shall be subject to the applicable laws of the State of Louisiana which govern the maintenance and disclosure of public records.

6.3 **Security.** No member of the Board of Trustees shall be required to post bond or security of any kind; however, the Board of Trustees may acquire, with trust funds and at its sole discretion, an insurance policy providing coverage for errors and omissions involving actions of the Board of Trustees taken during the ordinary course of administration and management of this trust.

6.4 **Compensation.** The Board of Trustees shall not be entitled to receive compensation for rendering services pursuant to this Agreement.

6.5 **Liability.** The Board of Trustees, and the individual members thereof, shall be responsible for reasonable care, diligence and business prudence in the administration of this trust and otherwise shall be relieved from all liability in connection with the administration of this trust, except liability for gross negligence or gross or willful misconduct.

6.6 **Prohibited Acts.** The Board of Trustees shall not engage in any transaction between this trust and SCP, or St. Charles Parish, or any political subdivision thereof, which lends any part of its income or principal without receiving adequate security and a reasonable rate of interest, which pays any compensation more than a reasonable allowance for salaries or other compensation for services actually rendered, which makes any service available on a preferential basis, which makes any substantial purchase of securities or other property for more than adequate consideration, which sells any substantial part of its securities or other property for less than adequate consideration or which engages in any transaction, other than termination or a distribution to or for the benefit of the Plan, which results in a substantial diversion of its income or principal. Further, members of the Board of Trustees expressly **shall not:** a) be a party in his or her individual capacity to any transaction

engaged in by the Board of Trustees or an investment manager which involves the property or assets of the trust, b) use the income, gains, profits or principal of the trust for any purpose except to make investments or payments authorized by the Board of Trustees for the benefit of trust beneficiaries, c) deal with or manage the assets of the trust for his or her own individual account, d) participate in any transaction involving this trust on behalf of a party whose interests are adverse to the best interests of this trust or the beneficiaries of this trust, or e) become an endorser or guarantor, or an obligor, for funds loaned to or borrowed from this trust.

**6.7 Fiduciary Duties and Status.** The Board of Trustees shall discharge its fiduciary duties with respect to this trust only in the ultimate best interests of the SCP participants in retiree benefit plans and their eligible spouses and dependents, shall only provide benefits to and for the benefit of such retiree participants and their eligible spouses and dependents and defray reasonable expenses of administering and operating the trust, shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a reasonable and prudent person acting in a like capacity and familiar with such matters and practices would exercise, all in accordance with the laws, regulations, policies and guidelines governing this trust.

## **VII. MEMBERS OF THE BOARD OF TRUSTEES: INDEMNIFICATION**

**7.1 Membership; Vacancy.** The five (5) initial members of the Board of Trustees shall be comprised of the President of St. Charles Parish (or his or her designee), two (2) members of the St. Charles Parish Council to be designated by the St. Charles Parish Council, the Finance Director for St. Charles Parish, and the Personnel Director for St. Charles Parish, who may vary from time to time. In the event of a vacancy in the membership of the Board of Trustees, SCP shall appoint a

temporary replacement member, until such time as the regular member is identified and assumes the position which previously had been vacant.

**7.2 Indemnification of Members of the Board of Trustees.** SCP shall indemnify each member of the Board of Trustees who is or becomes a party to any legal action, including any administrative or investigative proceeding, as a result of service on the Board of Trustees, which indemnification shall apply to civil matters, claims and causes of action if the member of the Board of Trustees acts in good faith and in a manner reasonably believed to be in the best interests of this trust and its beneficiaries, and to criminal matters if the member of the Board of Trustees had no reasonable cause to believe that his or her conduct could be considered unlawful. When the indemnification obligation by SCP arises, SCP shall indemnify the member from and against any and all claims, expenses and costs associated with and arising out of the matter indemnified including particularly, but not limited to, reasonable attorney's fees, judgments, damages, costs, fines and compromises. The termination of a legal action against a member of the Board of Trustees shall not create a presumption that he or she did not act in good faith and in a manner reasonably believed to be in the best interests of this trust and its beneficiaries. Similarly, the termination of a criminal proceeding shall not create a presumption that the member had reasonable cause to believe that such conduct was unlawful. However, SCP shall not indemnify a member if such member is found by a court of competent jurisdiction to have been grossly negligent or to have engaged in willful and wanton misconduct in the performance of his or her duties as a member of the Board of Trustees.

#### **VIII. OTHER MISCELLANEOUS PROVISIONS**

**8.1 Acceptances.** The Board of Trustees herewith accepts the contribution of property made herein on behalf of the beneficiaries and the trust created by this Act and acknowledges receipt of

the property delivered to it, and the members of the Board of Trustees accept the trust conferred upon them herein and pledge that they faithfully shall discharge the office of members of the Board of Trustees as fiduciaries, in accordance with law and with the terms, provisions and conditions herein set forth.

**8.2 Reliance on Counterparts.** Anyone may rely upon a copy of this Act certified by a Notary Public to be a counterpart of it, or upon a duplicate original of it kept by the Board of Trustees, to the same effect as if it were the original.

**8.3 Reliance on Certification.** Anyone dealing with the Board of Trustees, or any member thereof, in good faith may rely upon any statement of fact certified by the Board of Trustees, or the duly authorized representative thereof.

**8.4 Application of Louisiana Law; Venue.** Unless otherwise provided herein, all substantive and procedural questions pertaining to the administration of the trust shall be resolved in accordance with the laws of the State of Louisiana and, in particular, the Louisiana Trust Code and the Louisiana Revised Statutes, as amended or as hereinafter amended. If it is necessary to have a judicial interpretation of the provisions of this trust, such determination, upon petition by the Board of Trustees, shall be made by the Twenty-ninth Judicial District Court in and for the Parish of St. Charles, State of Louisiana, and the judgment of said court shall be final.

**8.5 Interpretation.** Each object, term and provision of this trust shall be treated as separate and distinct from each and every other object, term and provision hereof, such that no term or provision of this trust shall be deemed or declared illegal, invalid or unenforceable by reason of the illegality, invalidity or unenforceability of any other term or provision of this trust, and, in the event one or more of the terms or provisions of this trust shall be declared or adjudged illegal, invalid or

unenforceable, each and every other term or provision of this trust shall continue and remain in full force and effect for all purposes, to all intents, as if the term or provision so declared or adjudged to be illegal, invalid or unenforceable had never been contained in this trust. Should any term or provision of this trust be declared or adjudged illegal, invalid or unenforceable for any reason, the Board of Trustees may seek and obtain from any court of competent jurisdiction instruments, necessary orders or decrees for the purpose of carrying out as nearly as may be possible the purposes of this trust, as indicated by the terms and provisions hereof, including the terms, words or provisions declared or adjudged to be illegal, invalid or unenforceable.

**8.6 Tax-exempt Status of the Trust.** No action, or omission, of the Board of Trustees, any member thereof, or of any designee thereof to perform services pursuant to this Act, shall occur which causes, or jeopardizes, the loss of income tax-exempt status of this trust. Further, no part of the net earnings of this trust may inure to the benefit of any member of the Board of Trustees, any Plan participant, retiree or other beneficiary other than by benefit payments which are made by the Plan to retirees and their eligible spouses and dependents pursuant to the terms and provisions of the Plan, nor shall trust assets be used for or diverted to purposes other than in furtherance of the fulfillment of the requirements of the Plan. No private interests materially may participate in the operations of the trust, nor may private interests benefit more than incidentally from the trust. However, a portion of the net earnings of the trust may be used to defray the costs of reasonable and demonstrable expenses, professional costs and expenses arising solely out of the operation of the trust and the Plan for goods and services reasonably rendered. Under no circumstances shall property or assets of the trust be made available to, or used by, any person or entity that is not an organization whose income is excluded from gross income under Section 115 of the Internal



Revenue Code of 1986, as amended or as hereafter amended. If required by the Internal Revenue Service, the following language shall be added in bold type to the first page of the Plan:

"No guaranty that payments or reimbursements to employees, former employees or retirees or their dependents will be tax-free. The Trust has obtained a ruling from the Internal Revenue Service concerning only the federal tax treatment of the Trust's income. That ruling may not be cited or relied upon by the employer whatsoever as precedent concerning any matter relating to the employer's health plans (including post-retirement health plans). In particular, that ruling has no effect on whether contributions to the employer's health plans or payments from the employer's health plans (including reimbursements of medical expenses) are excludable from the gross income of employees, former employees or retirees and their dependents, under the Internal Revenue Code. The federal income tax consequences to employees, former employees and retirees depend on the terms and operations of the employer's health plans."

**8.7 Officers; Voting.** The Board of Trustees shall designate at its annual meeting a chairperson, vice-chairperson and secretary, all to serve for one-year terms or until a successor is designated. Whenever the signature of the Board of Trustees is required on any document, the signature of all such officers shall be required for such purpose. Decisions of the Board of Trustees shall be made by majority vote of all of the members of the Board of Trustees.

**8.8 Meetings.** The Board of Trustees shall meet not less often than annually during each calendar year at the St. Charles Parish Courthouse, Council Chambers, and or such other location as shall be determined. The secretary of the Board of Trustees, or his or her designee, shall give notice of the time and place of each such meeting to the other members of the Board of Trustees. Notice and conduct of all meetings shall be given in accordance with applicable law, including any provisions of the Louisiana Open Meetings Law, Louisiana Revised Statutes 42:4.1-13, if ever applicable to the activities of the Board of Trustees. The Board of Trustees shall adopt its own rules of procedure and shall keep a record of its proceedings.

8.9 **Fiscal Year of Trust.** This trust shall have a calendar year of January 1 through December 31, and its fiscal year shall be the same as that of SCP.

IN WITNESS WHEREOF, Settlor and the Board of Trustees have executed this Act in multiple original counterparts, each of which shall constitute an original copy of this Act, in the presence of the undersigned competent witnesses, on this \_\_\_\_ day of March, 2013.

WITNESSES:

SETTLOR:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
St. Charles Parish, by and through its Parish President, V. J. St. Pierre, Jr.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

MEMBERS, BOARD OF TRUSTEES:

\_\_\_\_\_  
V.J. St. Pierre, Jr.

\_\_\_\_\_  
Member, St. Charles Parish Council

\_\_\_\_\_  
Member, St. Charles Parish Council

\_\_\_\_\_  
Grant M. Dussom, Finance Director

\_\_\_\_\_  
Sandra Zimmer, Personnel Director

\_\_\_\_\_  
\_\_\_\_\_, Louisiana Notary Number \_\_\_\_\_  
Notary Public in and for St. Charles Parish, Louisiana

**2013-0085**

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT  
(DEPARTMENT OF EMERGENCY PREPAREDNESS)**

**ORDINANCE NO. \_\_\_\_\_**

An ordinance to approve and authorize the execution of a Right of Way and Servitude Agreement by St. Charles Parish to Entergy Louisiana, LLC on the property of 15026 River Road, Hahnville.

**WHEREAS,** St. Charles Parish is the owner of certain property in Hahnville known as 15026 River Road; and,

**WHEREAS,** Entergy Louisiana LLC has requested that St. Charles Parish grant them a Right of Way and Servitude across a portion of said property, as more fully described in the Right of Way Instrument and accompanying survey by Lucien Gassen dated January 6, 2010.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the St. Charles Parish Council does hereby approve the Right of Way and Servitude Agreement by and between St. Charles Parish and Entergy Louisiana, LLC.

**SECTION II.** That the Parish President is hereby authorized to execute said Right of Way and Servitude Agreement on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_

STATE OF LOUISIANA  
PARISH OF St. Charles

WR# \_\_\_\_\_  
TLN# \_\_\_\_\_

**RIGHT-OF-WAY INSTRUMENT**  
**ENTERGY LOUISIANA, LLC**

KNOW ALL MEN BY THESE PRESENTS THAT: ST. CHARLES PARISH, herein represented by V. J. St. Pierre, Jr., Parish President, Grantor(s), whose permanent mailing address is P. O. Box 302, Hahnville, Louisiana, 70057, acting individually, and for, and on behalf of, my/our heirs, successors, assigns and any other person claiming the ownership to the property hereinafter described, collectively "Grantor", for and in consideration of One Dollar, in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, assign, convey unto and warrant and defend Entergy Louisiana, LLC, and its successors and assigns, collectively "Grantee", a right-of-way, servitude and easement ten (10') feet in width for the location, construction, reconstruction, improvements, repairs, operation, inspection, patrol, replacement and maintenance of electric power and communication facilities, or the removal thereof, now or in the future, including, but not necessarily limited to, poles, cross arms, insulators, wires, cables, conduits, hardware, transformers, switches, guy wires, anchors and other equipment, structures, material and appurtenances, now or hereafter used, useful or desired in connection therewith by Grantee over, across, under or on that land of Grantor in the Parish of St. Charles, State of Louisiana described as follows, to-wit:

A certain tract or parcel of land situated in the Parish of St. Charles, State of Louisiana, on the right bank of the Mississippi River and more clearly shown on a survey by Lucien Gassen, PLS dated January 6, 2010 entitled "Survey of Two Portions of Property being purchased by St. Charles Parish". Being the same property acquired by grantor by Act of Sale duly recorded on May 4, 2010 at COB 742, folio 490 in and for the Parish of St. Charles.

The location of the right of way and servitude herein granted is more clearly shown, indicated or delineated in red on that drawing prepared by Landmark Surveying, Inc. for Entergy Louisiana, LLC, dated March 30, 2012, and identified as Job No. 12-0075 - Plat File No. 120075-2, copy of which is attached hereto and made a part hereof, together with the right of ingress and egress to and from said right-of-way across the adjoining land of the Grantor and the right to attach wires and cables of any other party to Grantee's facilities.

Grantee shall have the full and continuing right to clear and keep clear vegetation within or growing into said right-of-way and the further right to remove or modify from time to time trees, limbs, and/or vegetation outside the said right of way which the Grantee considers a hazard to any of its electric power or communications facilities or a hazard to the rendering of adequate and dependable service to Grantor or any of Grantee's customers, by use of a variety of methods used in the vegetation management industry.

Grantor shall not construct or permit the construction of any structure, obstruction or other hazard within the said right-of-way, including but not limited to, house, barn, garage, shed, pond, pool or well, excepting only Grantor's fence(s) and Grantee's facilities. Grantor shall not construct or permit the construction of any buildings or other structures on land adjoining said right-of-way in violation of the minimum clearances from the lines and facilities of Grantee, as provided in the National Electrical Safety Code.

IN WITNESS WHEREOF, Grantor has executed this Right-of-Way Instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

WITNESSES:

GRANTOR(S): ST. CHARLES PARISH

\_\_\_\_\_  
PRINT FULL NAME: \_\_\_\_\_

\_\_\_\_\_  
V. J. ST. PIERRE, JR. - PARISH PRESIDENT

\_\_\_\_\_  
PRINT FULL NAME: \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF LOUISIANA  
PARISH OF \_\_\_\_\_

BEFORE ME, the undersigned notary, personally came and appeared \_\_\_\_\_, who being first sworn, did depose and say that he/she signed the foregoing instrument as a **witness** in the presence of Grantor and another subscribing witness, and that all of said signatures thereto are genuine and correct.

\_\_\_\_\_  
Appearer

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2013.

Grantee's Permanent Mailing Address:  
100 Alpha Dr. Ste 100, Destrehan, LA 70047

\_\_\_\_\_  
Notary Public:  
Bar Roll # or Notary I.D. \_\_\_\_\_

(ROAD)

Convenience of the intersection of the eastern right of way of Le Slatts Highway 18 (Hwy Road) and the property line defining the Guadalupe Property and the Madera Property, said point being marked by and from Rod Found and being the Point of Beginning, thence N42°20'01"W, along said property line, a distance of 442.89' to a point; thence S25°23'09"E, a distance of 17.66' to a point; thence N43°38'51"E, a distance of 91.78' to a point; thence N25°23'09"W, a distance of 17.66' to a point; thence N42°20'01"E, a distance of 72.95' to a point; thence S13°05'20"W, a distance of 13.17' to a point; thence S42°29'01"W, a distance of 54.74' to a point; thence S25°23'09"E, a distance of 17.97' to a point; thence S64°38'01"W, a distance of 111.76' to a point; thence N42°23'09"W, a distance of 13.81' to a point; thence S62°29'01"E, a distance of 111.76' to a point; thence N10°05'24"W, a distance of 10.40' to the Point of Beginning. Containing 6,267 square feet, all 435.65' more or less on a survey by Landmark Surveying, Inc., dated March 30, 2012.

Commences at the intersection of the eastern right of way line of La. State Highway 18 (Silver Road) and the property line dividing the Guidet Property and the Madore Property, said point being marked by and "Iron Rod Found; thence S10°05'24"E, a distance of 10.40' to a point; thence N62°29'01"W, a distance of 354.18' to the Point of Beginning; thence S68°29'01"E, a distance of 11.40' to a point; thence S58°10'35"E, a distance of 31.35' to a point; thence N62°29'01"W, a distance of 29.34' to a point; thence S27°36'59"E, a distance of 10.00' to a point; thence S62°29'01"W, a distance of 35.27' to a point; thence N45°30'55"W, a distance of 42.22' to the Point of Beginning. Containing 693 square feet.

Commence at the intersection of the eastern right of way line of La State Highway 18 (Inner Road) and the property line abutting the Gaudet Property and the Maders Property, said point being marked by Iron Rod found; thence S10°05'24"E, a distance of 10.40' to a point; thence N62°29'01"E, a distance of 254.13' a point; thence S56°10'35"E, a distance of 43.27' to a point; thence N62°29'01"E, a distance of 35.37' to the Point of Beginning; thence N27°30'39"W, a distance of 10.50' to a point; thence N62°29'01"E, a distance of 10.50' to a point; thence S27°30'59"E, a distance of 10.50' to the Point of Beginning. Containing 110 square feet.

Plat showing survey of property owned by St. Charles Parish, located in Sections 16 & 17, Township 13 South ~ Range 20 East, Hahnville, St. Charles Parish, Louisiana, for St. Charles Parish

[illegible]

1513 Kuebel Street  
Barrahan, Louisiana 70123

© Copyright 2004

LINE TABLE		
LINE	LENGTH	BEARING
L1	10.50	N27°30'59"W
L2	10.50	N62°29'01"E
L3	10.50	S27°30'59"E
L4	10.50	S62°29'01"W

Plat showing survey of property owned by St. Charles Parish, located in Sections 16 & 17, Township 13 South ~ Range 20 East, Hahnville, St. Charles Parish, Louisiana, for St. Charles Parish

[illegible]

1513 Kuebel Street  
Barrahan, Louisiana 70123

© Copyright 2004

LINE TABLE		
LINE	LENGTH	BEARING
L1	10.50	N27°30'59"W
L2	10.50	N62°29'01"E
L3	10.50	S27°30'59"E
L4	10.50	S62°29'01"W

Plat showing survey of property owned by St. Charles Parish, located in Sections 16 & 17, Township 13 South ~ Range 20 East, Hahnville, St. Charles Parish, Louisiana, for St. Charles Parish

[illegible]

1513 Kuebel Street  
Barrahan, Louisiana 70123

© Copyright 2004

SECTION 17, T 13 S ~ R 20 E,  
ST. CHARLES PARISH, LOUISIANA

JOB NO. 12-0075-5  
PLAT FILE NO. 120075-5

SCALE 1" = 50'

DATE \_\_\_\_\_

© Cengage Learning

A



**2013-0084**

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT  
(DEPARTMENT OF PLANNING & ZONING)**

**ORDINANCE NO.** \_\_\_\_\_

An ordinance to amend the Zoning Ordinance of 1981, Ordinance No. 81-10-6, to approve a change of zoning classification from R-1A to C-2 at Lot 10A of Block 105 of a portion of Ellington Plantation as requested by First National Bank, USA.

**WHEREAS,** Lot 10A of Block 105 of a Portion of Ellington Plantation was developed with a commercial building long before Ordinance 81-10-6 zoned the property R-1A; and,

**WHEREAS,** the building and site development make residential use unlikely; and,

**WHEREAS,** the St. Charles Parish Planning and Zoning Commission recommended approval of the owners' request to rezone to C-2 at its regular meeting of March 7, 2013; and,

**WHEREAS,** rezoning the property to C-2 does not conflict with the Future Land Use Map.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** An ordinance to amend the Zoning Ordinance of 1981, Ordinance No. 81-10-6, to approve a change of zoning classification from R-1A to C-2 at Lot 10A of Block 105 of a Portion of Ellington Plantation as shown on a survey by Lucien C. Gassen dated May 10, 2004 as requested by First National Bank, USA.

**SECTION II.** To authorize the Department of Planning & Zoning to amend the official St. Charles Parish Zoning Map to reflect the zoning reclassification to C-2.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_

---

**RECOMMENDATIONS AT A GLANCE**

PZR-2013-01 requested by First National Bank for a change in zoning classification from R-1A to C-2 at 201 Post Street, Luling (Lot 10A, Block 105, Ellington Plantation) Council District 2.

**Planning Department Recommendation:**

Approval

**Planning Commission Recommendation:**

Approval



Mr. Gibbs: Next item on the agenda PZR-2013-01 requested by First National Bank for a change in zoning classification from R-1A to C-2 at 201 Post Street, Luling (Lot 10A, Block 105, Ellington Plantation) Council District 2. Ms. Stein.

Ms. Stein: Thank you Mr. Chair. The applicant requests rezoning from R-1A to C-2 on a property that was developed with a medical clinic decades ago. The building and site were upgraded for use as a Class A child daycare in 2004 (PZSPU 2004-05). The daycare closed last year in March 2012. In order to receive a recommendation for approval, a rezoning request must meet all of the criteria of at least one of the tests listed in applicable regulations. **This request meets all the criteria of the first test.**

The first test allows relief when land use character in an area has changed to the extent that current zoning no longer allows reasonable use of the property. The request meets all the criteria of this test in that it was developed in with a site-built doctor's office that operated for decades before it was zoned R-1A (in 1981). The 1981 zoning made the property non-conforming. Still, the medical use continues with the building becoming the St. Charles Parish Health Unit in the mid-80s. After the Health unit closed the building as vacant for several years before a previous owner obtained a Special Permit to convert it to a child daycare (2004). The daycare operated until in March 2012 with no complaints on file in the Permits/Complaints/Inspections database. In spite of the building and site meeting the strict requirements of several different state agencies for a child daycare, and for being on the market for lease or sale, no daycare has operated there for more than six months, so the Special Permit on the property has expired. The 18,750 square foot property is developed with an institutional building complete with a commercial kitchen and parking area, but the only use permitted under current zoning is a single-family residence which is extremely unlikely to occur.

Rezoning to C-2 would comply with the Future Land Use map and would also expand the number of uses that could be permitted in the building as described in Applicable Regulations above. The current site development should limit the negative impacts to adjacent residential property, with the exception of the location of the dumpster pad. We'll try to work with the applicant to make that work out, so we recommend approval.

Mr. Gibbs: Thank you Ms. Stein. This is a public hearing for PZR-2013-01, anyone in the audience care to speak? State your name and address please.

My name is Bob Yeager I live at 141 Fashion Blvd. in Hahnville. I've owned the Cracked Pot garden center on Airline Hwy for the last 7 years. We have a sandwich shop in it. We sold the garden center 2 months ago. I have a long term lease purchase agreement with First National Bank on the Post Street property. I would like to make a catering operation. We have been selling food to Valero, Shell Oil and Dow Chemical and I would like to be able to have a commercial kitchen. It's really been a commercial building for 60 years and I would really like to make it a commercial building, have it C-2 if I could. I would really appreciate your help.

Mr. Gibbs: Thank you Mr. Yeager. Anyone else care to speak?

My name is Gwen Grawl Doherty and my family has had the property adjacent to this building since 1954 and our concerns are what other types of businesses could be located on that property if the catering doesn't work. There's one dumpster there now, will additional dumpsters be located on there and where will they be located?

Mr. Clulee: Ms. Stein, how many parking spots they have there?

Ms. Stein: It depends on a couple of different factors, but when it was permitted there were 14 and the dumpster pad was actually 2 parking stalls.

Mr. Clulee: Ms. Doherty your concern is the dumpsters, if there would be 2?

Ms. Doherty: If there would be additional and how many additional dumpsters and where would they be located.

Mr. Clulee: Could you answer that Mr. Yeager?

Mr. Yeager: At the Cracked Pot garden center where we had the sandwich shop we just used the regular residential dumpster, the little ones. I have no plans for large dumpsters.

Mr. Clulee: If the case that you did need a dumpster, is there a place that you could put it that wouldn't interfere with her house and put a picket wooden fence whatever around it if that answer your question?

Mr. Yeager: I'll be working with you.

Ms. Doherty: Ok. When it was changed to a daycare center one of the things was they put in a fence in between the 2 properties, that helps, but my other question is what are the hours of operation?

Mr. Yeager: Initially it's going to be from 9-2.

Ms. Doherty: Ok.

Mr. Yeager: It's not going to be a late night thing.

Ms. Doherty: We just want reassurance because there are a number of elderly people that live around in that neighborhood and we just want to make sure that it doesn't turn into some late night retail with lots of traffic in and out.

Mr. Clulee: I spoke with Mr. Yeager and I think he's going to be a good neighbor.

Mr. Yeager: And I'm elderly.

Mr. Gibbs: Thank you Ms. Doherty. Anyone else in the audience that care to speak on PZR-2013-01?

Mr. Clulee: I'm sorry. I have one more question for Mr. Yeager. One of the other neighbors talked to me about a drainage problem, if you see that there is some way, I don't know that there is a drainage problem, the lady told me this, I've been knowing her for years. Maybe you can get with the parish or something and try to correct that if there is a problem.

Mr. Yeager: My only thought is the back of the property and the whole side is a parking lot with a curb. So I don't see how any water from the parking lot can go under anyone's property.

Mr. Clulee: It's supposed to rain Monday, I'm going to go out there and check it out.

Mr. Gibbs: Mr. Yeager you said the location has been there forever.

Mr. Yeager: The building has been there since the early '50's.

Mr. Clulee: That was before zoning came in. It was really acting as a commercial business.

Mr. Yeager: But in 2004 it was converted from a defunct business into a children's nursery and that's when they built the proper parking lot.

Mr. Gibbs: Thank you. Does anyone else care to speak? Step up to the mic please. State your name and address please ma'am.

Dianna Vitrano Ledet, 614 Milling Avenue. My back yard adjoins this lot. My problem is this, since they put the cement with the fence, the chainwall with the fence, our properties don't drain anymore, that's the problem. You have a little natural swale in between everybody's property and it would go straight to Post, now it's stuck and it stays right there, water stays on the property and I've been there 20 years or better and the water stays this high all around my fence. I don't have the cement under it, but that property has cement under it, which is fine, it's nice but we can't drain.

Mr. Clulee: So that's been like that for 20 years?

Ms. Ledet: No since the nursery put the fence.

Mr. Gibbs: 2004 I believe.

Ms. Ledet: See they have the cement and the fence sits on it.

Mr. Clulee: So you're saying the water is draining on your property?

Ms. Ledet: No I have everybody's water passing through but it can't go anywhere since they put that. A couple of times my husband went and had to go and relieve it a little bit so it wouldn't go into my sheds. It used to pass right through the shed.

Mr. Clulee: When I spoke to you earlier, I spoke to Mr. Yeager about it and I think he's willing to address that and make it work for everybody. I don't know if it's something the parish needs to do, the property owners or what.

Ms. Ledet: If they could just make little cuts in it so that the water can pass. Thank you.

---

Mr. Gibbs: Thank you Ms. Ledet. Anyone else care to speak on PZR-2013-01? Seeing none, the public hearing is closed. Can we take a vote please?

YEAS: Pierre, Foster, Booth, Gibbs, Galliano, Clulee, Frangella  
NAYS: None  
ABSENT: None

Mr. Gibbs: That's unanimous. This is going to go before the Parish Council on March 25<sup>th</sup> in this same room.

---

# St. Charles Parish

## Department of Planning & Zoning

### LAND USE REPORT

CASE NUMBER: PZR-2013-01

#### GENERAL APPLICATION INFORMATION

- ◆ **Name/Address of Applicant:** **Application Date: 1/17/2013**  
 First National Bank  
 c/o Bob Yeager for Cayoudles  
 PO Box 508  
 Boutte, LA 70039  
 985.785.8411
- ◆ **Location of Site:**  
 201 Post Avenue, Luling
- ◆ **Requested Action:**  
 Rezone from R-1A to C-2 to develop a food catering business as well as any other C-2 uses.

#### SITE-SPECIFIC INFORMATION

- ◆ **Size of Parcel:**  
 18,750 sq ft
- ◆ **Existing Land Use and Zoning:**  
 Property is zoned R-1A and vacant; it was most recently used as a child day care center (Class A).
- ◆ **Surrounding Land Uses and Zoning:**  
 R-1 A zoning and single-family site-built houses abut to the north, east, and south. C-2/C-3 zoning with a strip mall abuts to the west, across Ellington Avenue. Of the three suites closest to the subject property, two have been vacant for several years and one has been vacant for two months.
- ◆ **Future Land Use Map Designation;**  
 Paul Maillard Road mixed-use corridor.
- ◆ **Traffic Access:**  
 Site has 150 feet of frontage on Ellington and 120 feet of frontage on Post. It is developed with one-way circulation from Ellington for as many as nine parking stalls around the building exiting on Post.

#### APPLICABLE REGULATIONS

##### Appendix A., Zoning Ordinance, Section IV.9:

Rezoning Guidelines and Criteria: Before the Planning & Zoning Commission recommends or the Parish Council rezones property, there should be reasonable factual proof by the proponent of a change that one or more of the following criteria are met:

1. Land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the proponent's property and adjacent property. Reasonableness is defined as:
  - a. Land use the same as, or similar to that existing on properties next to, or across the street from the site under consideration.
  - b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography or related hazards or deficiencies.
  - c. Consideration of changes in land value, physical environment or economic aspects, which tend to limit the usefulness of vacant land or buildings.
2. The proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare and will not create:
  - a. Undue congestion of streets and traffic access.
  - b. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks and other public facilities.
  - c. Land or building usage which, is, or may become incompatible with existing character or usage of the neighborhood.

- d. An oversupply of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood.
- 3. The proposed zoning change is in keeping with zoning law and precedent, in that:
  - a. It is not capricious or arbitrary in nature or intent.
  - b. It does not create a monopoly, or limit the value or usefulness of neighboring properties.
  - c. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns.
  - d. It does not create a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties.

## AND

### [III.] C-2 General commercial district-- Retail sales:

- 1. Use Regulations:
  - a. A building or land shall be used for the following purposes:
    - (1) All uses allowed in C-1 District. (Ord. No. 88-5-5, 5-16-88)
    - (2) Retail sales (except auto and mobile home sales), usage, and storage
    - (3) Hotels, motels and apartment hotels
    - (4) [Repealed by Ord. No. 92-9-14, 9-8-92.]
    - (5) Restaurants (including drive-in restaurants) and cafeterias. Specific land use requirements for restaurants serving alcoholic beverages are contained in subsection III.59. of these regulations, with further details contained within Chapter 3 of the St. Charles Parish Code of Ordinances. (Ord. No. 94-11-2, § V, 11-7-94)
    - (6) Animal hospitals where all animals are kept inside the building
    - (7) Service station
    - (8) Commercial recreation facilities
    - (9) Commercial greenhouses and nurseries
    - (10) Commercial schools
    - (11) Shops not to exceed two thousand five hundred (2,500) square feet of floor area for the repair and servicing of the following: bicycles, radios, televisions, stereos and recorders, household appliances, locksmith, typewriters, other similar uses
    - (12) Shops not to exceed two thousand five hundred (2,500) square feet of floor area may also include the following uses: dressmakers, millinery, tailors, baking goods sales, laundry and dry, cleaners, theatres (but not the drive-in type)
    - (13) Laboratories
    - (14) Customary accessory uses incidental to the above uses when located on the same lot
    - (15) Funeral homes (provided that a petition of no objection signed by a majority of property owners within a three hundred foot radius of the site and one hundred (100) percent of the property owners on the same street within the same block be filed with the Planning Zoning Department
    - (16) Cemeteries and mausoleums, provided however that such uses shall be located on sites of at least twenty (20) acres, all graves shall be set back at least fifty (50) feet from all property lines, shall have a minimum street frontage of one hundred (100) feet and a fence or screen planting six (6) feet high shall be provided along all property lines adjoining all districts Cellular/communication towers. (Ord. No. 95-9-11, 9-18-95)
    - (17) Other uses of similar intensity.
    - (18) Mini-storage facilities (limited to one-story construction in C-2 district). (Ord. No. 98-3-17)
  - b. Special exception uses and structures include the following:
    - (1) Dwelling units contained within the office building
    - (2) Reserved
    - (3) Reserved
    - (4) Churches
    - (5) Movie theaters
    - (6) Temporary on-site construction buildings for a period of one (1) year upon approval of the Planning Director. (Ord. No. 88-9-9, 9-6-88) (Ord. No. 85-7-17, 7-22-85)
  - c. Special permit uses and structures include the following:
    - (1) R-1A and R-1B uses upon review and approval by the Planning Commission.
    - (2) R-3 uses upon review and approval by the Planning Commission and supporting resolution of the Council.
    - (3) Office buildings for gaming operations, excluding all gaming activities, upon review and approval by the Planning Commission and supporting resolution of the Council.
    - (4) Motor vehicle repair. Automobile sales and service on designated federal and state highways; body repair activities being strictly prohibited in the C-2 zoning district.



- (5) Heating and air conditioning service.
- (6) Sheet metal shops
- (7) Plumbing shops.
- (8) Green markets upon review and approval by the Planning Commission and supporting resolution of the Council. Such sites must possess frontage on a hard-surfaced public collector or arterial street.
- (9) Bingo halls, video bingo parlors, and off-track betting establishments upon review of the planning commission and ordinance of the St. Charles Parish Council. (Ord. No. 92-9-14, 9-8-92; Ord. No. 94-1-9, § III, 1-10-94; Ord. No. 94-6-6, § I, 6-6-94; Ord. No. 98-7-6, 7-6-98; Ord. No. 02-5-21, 5-20-02; Ord. No. 03-1-12, § III, 1-21-03; Ord. No. 07- 5-07; Ord. No. 09-4-19, § 1, 4-20-09)
- 2. Spatial Requirements:
  - a. Minimum lot size: Six thousand (6,000) square feet, minimum width - sixty (60) feet.
  - b. Minimum yard sizes:
    - (1) Front - twenty (20) feet
    - (2) Side - five (5) feet
    - (3) Rear - ten (10) feet.
    - (4) Whenever property abuts a major drainage canal as defined by the Subdivision regulations the required setback for all structures shall be ten (10) feet measured from the inner boundary of such servitude or right-of-way, notwithstanding any other more restrictive setbacks, this provision shall not apply to any lot of record created and existing prior to the effective date of Ordinance No. 99-12-8, December 15, 1999. (Ord. No. 08-8-9, § XI, 8-18-08)
- 3. Transportation Requirements: Arterial
- 4. Special Provisions:
  - a. Where any commercial use in a C-2 zoning district abuts any residential district or use, a six-foot high solid wood fence or masonry wall shall border the same and there shall be a buffer strip ten (10) feet wide designated and maintained on the site planted with plant materials acceptable for buffer zones (Ord. No. 82-6-9, § III, 6-7-82; Ord. No. 98-1-3, § III, 1-5-98)

## ANALYSIS

The applicant requests rezoning from R-1A to C-2 on a property that was developed with a medical clinic decades ago. The building and site were upgraded for use as a Class A child daycare in 2004 (PZSPU 2004-05). The daycare closed last year in March 2012.

In order to receive a recommendation for approval, a rezoning request must meet all of the criteria of at least one of the tests listed in applicable regulations. **This request meets all the criteria of the first test.**

The first test allows relief when land use character in an area has changed to the extent that current zoning no longer allows reasonable use of the property. The request meets all the criteria of this test in that it was developed in with a site-built doctor's office that operated for decades before it was zoned R-1A (in 1981). The 1981 zoning made the property non-conforming. Still, the medical use continues with the building becoming the St. Charles Parish Health Unit in the mid-80s. After the Health unit closed the building as vacant for several years before a previous owner obtained a Special Permit to convert it to a child daycare (2004). The daycare operated until in March 2012 with no complaints on file in the Permits/Complaints/Inspections database. In spite of the building and site meeting the strict requirements of several different state agencies for a child daycare, and for being on the market for lease or sale, no daycare has operated there for more than six months, so the Special Permit on the property has expired. The 18,750 square foot property is developed with an institutional building complete with a commercial kitchen and parking area, but the only use permitted under current zoning is a single-family house.

Rezoning to C-2 would comply with the Future Land Use map and would also expand the number of uses that could be permitted in the building as described in Applicable Regulations above. The current site development should limit the negative impacts to adjacent residential property, with the exception of the location of the dumpster pad.

## DEPARTMENTAL RECOMMENDATION

### Approval.



ACCOMPANY MAP  
SCALE: 1" = 200'

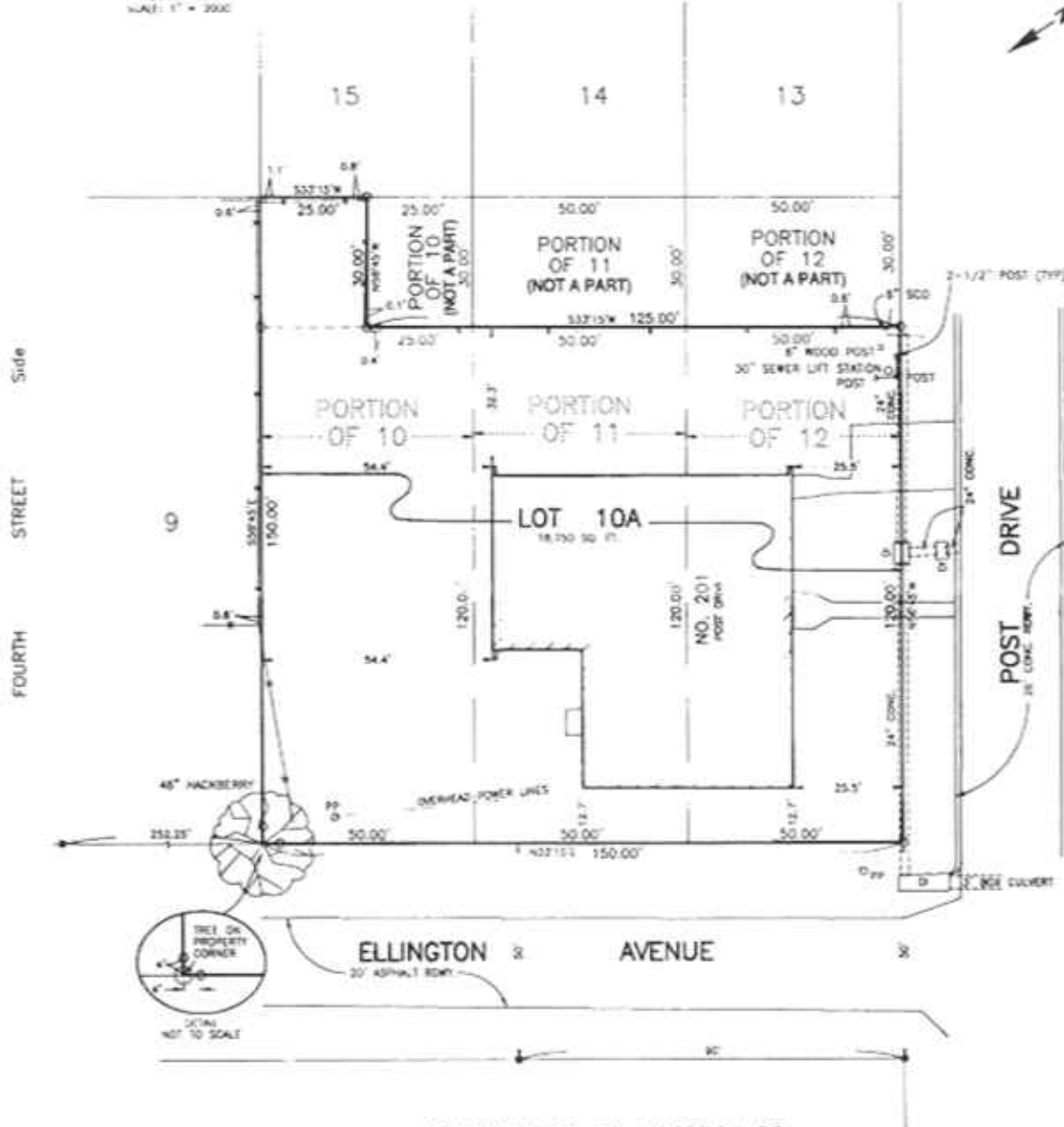
Approved/Disapproved  
*Philip D. Stephens*  
Director of Planning & Zoning  
4/3/04  
DATE

Approved/Disapproved  
*Albert D. Kagan*  
Parish President  
6/4/2004  
DATE

Recorded in the Clerk of Court's office  
St. Charles Parish on the 8 day of  
June 2004, in Book 437  
Page 35, Entry #295761

Signature \_\_\_\_\_ Title \_\_\_\_\_

MILLING AVENUE Side



RESUBDIVISION OF A PORTION OF  
LOTS 10, 11 & 12, BLOCK 105  
OF A PORTION OF  
ELLINGTON PLANTATION  
INTO LOT 10A  
IN SECTIONS 13 & 14, T13S - R21E  
ST. CHARLES PARISH, LOUISIANA  
SCALE: 1" = 30' MAY 10, 2004

CERTIFIED TO PATRICIA F. USPRICH

REFERENCE PLANS:

1. RESURVEY OF A PORTION OF ELLINGTON PLANTATION, INCLUDING SQUARES 5 & 100 & PORTIONS OF SECTIONS "C" & "D" BY E. M. COLLIER, DATED MAY 23, 1950.
2. PLAN BY E. M. COLLIER, DATED JANUARY 20, 1953.

The referenced plans show no servitudes and no information regarding servitudes was furnished by the owner or his agent. No further research regarding servitudes was performed for this survey.

This is to certify that I have consulted the Flood Insurance Rate Maps and found that this property is in Zone X.



I certify that this plan represents an actual ground survey performed under my supervision and is in accordance with the Louisiana standards of practice for a Class C survey.

*Lucien C. Gassen*  
LUCIEN C. GASSEN, PLS  
Registration No. 353  
Luling, Louisiana 70070





**2013-0086**

**INTRODUCED BY: LARRY COCHRAN, COUNCILMAN, DISTRICT V  
CLAYTON FAUCHEUX, JR., COUNCILMAN-AT-LARGE, DIVISION B  
WENDY BENEDETTO, COUNCILWOMAN, DISTRICT III**

**ORDINANCE NO.** \_\_\_\_\_

An ordinance to approve and authorize the execution of an Agreement between Tauzin Consultants, LLC and St. Charles Parish for governmental affairs representation.

**WHEREAS,** on March 21, 2011 the St. Charles Parish Council adopted Ordinance No. 11-3-4 which approved an Agreement between Tauzin Consultants, LLC and St. Charles Parish for governmental affairs representation, including before the Federal Government, which expires on March 31, 2013; and,

**WHEREAS,** Tauzin has provided direct representation before the Federal Government, including Congress, the Administration and various Federal Agencies, along with representation before various State Government Agencies, for priority projects of St. Charles Parish; and,

**WHEREAS,** it is the desire of the St. Charles Parish Council to continue the services of Tauzin Consultants, LLC.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the Agreement for services between Tauzin Consultants, LLC and St. Charles Parish is hereby approved.

**SECTION II.** That the Parish President is hereby authorized to execute said Agreement on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_

## AGREEMENT

THIS AGREEMENT is executed by and between St. Charles Parish, a government entity in the State of Louisiana, created and existing under the laws of the State of Louisiana, (herein called "St. Charles"), and Tauzin Consultants, LLC, (Herein called "Consultant")

In consideration of the mutual promises and covenants set forth herein, St. Charles and the Consultant agree to the following terms:

### I. Duties and Responsibilities of Consultant

- (1) St. Charles does hereby retain the services of Consultant and Consultant hereby agrees to provide these services to St. Charles all according to the terms set out in this Agreement. The principle duties of Consultant shall be to provide services as follows: securing state and federal permits (when applicable) and federal appropriations for a variety of projects including Hurricane Protection levees, new-age infrastructure with emphasis on effective drainage, wastewater, parks and recreation, community needs such as animal control and various stimulus projects.
- (2) In providing the services described herein, Consultant shall be available to St. Charles at times mutually agreeable to both parties during the period this Agreement is in effect.

### II. Terms of Agreement

- (1) This Agreement shall be effective for a period of thirty-three (33) months beginning **April 1, 2013**. The Agreement may be terminated for cause or upon the death or incapacitating disability of Consultant. In the event of termination, any compensation accrued but unpaid at the time of the termination shall be paid to the Consultant or his assigns.

- (2) This Agreement further contemplates that Consultant shall, from time to time, be called upon to provide special services for St. Charles over and above those specified herein, but yet undefined, which services shall be referred to as “special other services or projects,” the details of which shall be set forth in a separate written supplement to this Agreement at the time any “special project” is assigned by St. Charles to Consultant.

### III. Compensation

- (1) Beginning **April 1, 2013**, St. Charles agrees to pay Consultant a fee of One Hundred Twenty Thousand (\$120,000.00) dollars per annum for the period this contract is in effect to carry out the terms and conditions of this Agreement. The fee shall be paid monthly at the rate of Ten Thousand (\$10,000.00) dollars per month for services enumerated on a request for payment form approved by St. Charles.
- (2) Additionally, St. Charles agrees to pay Consultant 7.5% of the contract amount, Nine Thousand (\$9,000.00) dollars per annum for the period this contract is in effect for expenses (including travel, office expenses, entertainment, etc.) The fee shall be paid monthly at the rate of Seven Hundred Fifty (\$750.00) dollars per month enumerated on the request for payment form approved by St. Charles.
- (3) Consultant is an independent contractor and, therefore, shall not be entitled to any employee benefits of St. Charles.
- (4) Payment to Consultant shall be by check to Consultant (Tax I.D. Number is 27-3153542). Such payment shall discharge St. Charles of any further obligation with regard to the services performed for which payment has been made.

### IV. Confidentiality

Consultant acknowledges that in the course of performing assignments for St. Charles, Consultant will be exposed to confidential, proprietary,



educational and administrative information of St. Charles. Any confidential information acquired by the Consultant shall not be disclosed by him to others or used for Consultant’s own benefit. The obligations of Consultant under this paragraph shall survive termination of the Agreement provided, that Consultant’s obligation to keep information which (a) was known to Consultant, as evidenced by his written records, prior to the receipt of authoritative disclosures; or (b) hereinafter becomes generally known to the public through no fault of the Consultant.

This Agreement shall be effective on and after **April 1, 2013** and shall terminate on **December 31, 2015** unless otherwise extended, re-negotiated or terminated for cause.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate.

Tauzin Consultants, LLC

St. Charles Parish

BY \_\_\_\_\_  
Printed Name  
Title

BY \_\_\_\_\_  
Printed Name  
Title

DATED \_\_\_\_\_

DATED \_\_\_\_\_

**2013-0087**

**INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT  
(GENERAL GOVERNMENT BUILDINGS)**

**ORDINANCE NO.** \_\_\_\_\_

An ordinance to approve and authorize the execution of a Contract with Southern Construction of Metairie, LLC, for the St. Charles Parish Courthouse Door and Window Replacement project, HMPG # 1786-089-0001, FEMA Project #0071, in the amount of \$358,052.00.

**WHEREAS,** sealed bids were received by St. Charles Parish on December 7, 2012, for the St. Charles Parish Courthouse Door and Window Replacement project at 15045 River Road in Hahnville; and,

**WHEREAS,** Civil and Environmental Consulting Engineers, Danny Hebert, PE, the Engineer for the project, has reviewed the bids and recommended that the project be awarded to the low bidder, Southern Construction of Metairie, LLC, in the amount of \$358,052.00; and,

**WHEREAS,** the replacement of the existing doors and windows on the Courthouse with impact resistant glass doors and windows will provide a complete envelope of protection for the critical facility against wind driven rain and debris; and,

**WHEREAS,** said project is being funded in part by a FEMA Hazard Mitigation Grant, HMPG # 1786-089-0001, FEMA Project #0071, in the amount of \$258,883.00.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the bid of Southern Construction of Metairie, LLC, for the St. Charles Parish Courthouse Door and Window Replacement project, HMPG #1786-089-0001, FEMA Project #0071, be hereby approved and accepted in the amount of \$358,052.00.

**SECTION II.** That the Parish President is hereby authorized to execute said Contract on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_



SECTION 00500

AGREEMENT

THIS AGREEMENT is effective as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_ by and between the Parish of St. Charles, called the OWNER, and Southern Construction of Metairie, LLC hereinafter called the CONTRACTOR.

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents for the above Project. The Work is generally described as follows:

The Contract Work generally comprises of the construction of door and window replacement for the St. Charles Parish Courthouse.

ARTICLE 2. ENGINEER

The Project has been designed by Danny J. Hebert, P.E., L.L.C. who is hereinafter called ENGINEER and who will assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3. CONTRACT TIME

- 3.1 The Contractor shall complete all of the Work under the Contract within 150 calendar days from the date of the Notice to Proceed.
- 3.2 Liquidated Damages - OWNER and CONTRACTOR recognize that the OWNER will suffer direct financial loss if Work is not completed within the Contract times specified in Paragraph 3.1 above plus any extensions thereof allowed in accordance with Article 12 of the General Conditions, and therefore, time is of the essence. They also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, CONTRACTOR and Surety agree to forfeit and pay OWNER as liquidated damages for delay (but not as a penalty) the amount of \$250.00 for each calendar day that expires after the Contract Time specified in Paragraph 3.1 for final completion and ready for final acceptance until the Work is completed. These amounts represent a reasonable estimate of OWNER's expenses for extended delays and for inspection, engineering services and administrative costs associated with such delay. This provision shall be

effective between the parties ipso facto and without demand or putting in default, it being specifically agreed that the CONTRACTOR by his mere failure to complete the work on or before the date specified shall be deemed in default

#### ARTICLE 4. CONTRACT PRICE

**CONTRACT PRICE:** The amount to be paid to the Contractor by the Owner for completion of all work hereunder is: **(\$358,052.00) Three hundred fifty-eight thousand and fifty two and 00/100** Dollars based on unit prices specified within this contract document. Contract price is firm and subject only to modification by written change order agreed to by both parties.

#### ARTICLE 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress payments. OWNER shall make progress payments which exceed \$5,000 on account of the Contract price on the basis of CONTRACTOR's Applications for Payment, as recommended by ENGINEER, on or about the thirtieth (30th) day following receipt by the OWNER. Applications for Payments less than \$5,000 shall be accumulated until the next payment period or until final payment.

Progress payments will be based upon estimated quantities of completed contract unit price items or upon estimated percentages of completion of the schedule of lump sum values of labor and materials incorporated into the Work on the last day of each month or other mutually agreed regular monthly date ending the progress payment period.

- 5.2 Retainage. Retainage shall be withheld and payments will be made by the OWNER in the payment amount of: 1) ninety percent (90%) of the approved payment applications for projects with contract prices of less than \$500,000; or 2) ninety-five percent (95%) of the approved payment applications for the projects with contract prices of \$500,000 or greater.
- 5.3 Final Acceptance and Final Payment. Upon the final completion of all Work, the CONTRACTOR may request a final inspection and may make a final Application for Payment as provided by Paragraph 14.12 of the General Conditions, upon the OWNER's certificate of final acceptance.

Final acceptance of the Work, based upon the certificate of final acceptance, shall be by resolution of the Council of the Parish of St. Charles.

When substantial completion is granted by the Owner, the Certificate of Substantial Completion is then transmitted to the Contractor for filing with the recorder of mortgages of

the Parish of St. Charles. This begins the not less than forty-five (45) day lien period as prescribed for Public Works by Louisiana Revised Statutes 38:2242.

At the expiration of the lien period it is the CONTRACTOR's responsibility to obtain a certificate from the Recorder of Mortgages of the Parish of St. Charles that the Contract is clear of any liens or privileges, and said certificate shall be presented to the OWNER for final payment and release of retainage, less any such sums as may be lawfully withheld under the Contract.

#### ARTICLE 6. CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 6.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or finishing of the Work.
- 6.2 CONTRACTOR has studied carefully all reports of explorations and tests of subsurface physical conditions and drawings of physical conditions which are identified in the Information Available To Bidders and as provided in the General Conditions.
- 6.3 CONTRACTOR has obtained and carefully studied (or assumed responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Paragraph 6.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or which otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Paragraph 4.2 of the General Conditions. In exercising its responsibility with respect to subsurface conditions and physical conditions at the site, CONTRACTOR has or will obtain or perform at no additional cost to the OWNER such additional examinations, investigations, explorations, tests, reports, studies, or similar information or data as may be required by CONTRACTOR for such purposes.

#### ARTICLE 7. CONTRACT DOCUMENTS

The following Contract Documents, which comprise the entire Agreement between OWNER and CONTRACTOR, are all hereby made a part of that Agreement to the same extent as if incorporated herein in full:

- 7.1 Agreement
- 7.2 Construction Performance and Payment Bond and Insurance Certificates

- 7.3 Advertisement for Bids
- 7.4 CONTRACTOR's Bid Form
- 7.5 Addenda (Numbers 1 to 2 inclusive)
- 7.6 Contract documents bearing the general title "St. Charles Parish Courthouse Door and Window Replacement Project No. HMGP#1786-089-0001" dated April 30, 2012.
- 7.7 Drawings, consisting of a cover sheet dated April 30, 2012 and the sheets listed on Drawing I-14; each sheet bearing the following general title: "St. Charles Parish Courthouse Door and Window Replacement Project No. HMGP#1786-089-0001".
- 7.8 General Conditions
- 7.9 General Conditions, pages 00700-1 through 00700-31 and Section 00800, Supplementary Conditions, pages 00800-1 through 00800-25, and Second Supplementary Conditions have been adopted by the St. Charles Parish Council as a Standard General Conditions and Supplementary Conditions for Construction Contracts. Those General Conditions and Supplementary Conditions are to be referred to in the agreement and contract as "GEN.COND, CONST – 7/98 filed in MOB 682, Folio 230 filed with the St. Charles Parish Clerk of Court."

There are no Contract Documents other than those listed above in this Article 7. The Contract may only be amended, modified or supplemented as provided for in the General Conditions.

#### ARTICLE 8. MISCELLANEOUS

- 8.1 General Conditions, pages 00700-1 through 00700-31 and Section 00800, Supplementary Conditions, pages 00800-1 through 00800-25, and Second Supplementary Conditions have been adopted by the St. Charles Parish Council as a Standard General Conditions and Supplementary Conditions for Construction Contracts. Those General Conditions and Supplementary Conditions are to be referred to in the agreement and contract as "GEN.COND, CONST – 7/98 filed in MOB 682, Folio 230 filed with the St. Charles Parish Clerk of Court."
- 8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and, unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. Notwithstanding the foregoing, the OWNER may assign this contract to the State of Louisiana or any political subdivision, municipality, special district or authority thereof without CONTRACTOR's consent and without recourse.

- 8.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 It is hereby agreed and understood by the parties hereto that any and all disputes that may result in litigation shall be litigated in the 29th Judicial District Court for the Parish of St. Charles.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement effective as of the date first written above. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

OWNER: Parish of St. Charles

CONTRACTOR: Southern Construction of Metairie, LLC

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Attest \_\_\_\_\_

Attest \_\_\_\_\_

END OF SECTION